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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,612	01/26/2006	Gianfranco Gilardi	Q88296	4772
23373 7590 01/17/2007 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			EXAMINER MEAH, MOHAMMAD Y	
			ART UNIT	PAPER NUMBER
			1652	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
31 DAYS		01/17/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/537,612

Applicant(s)

GILARDI, GIANFRANCO

Examiner

Mohammad Meah

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-22 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_.

## DETAILED ACTION

The claims 1-22 are pending in the instant office action.

### ***Restriction***

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I. claims 1-8, 12-13, 15, 21-22, drawn protein 4 –helix bundle comprising SEQ ID NO: 1 and a redox center.

Group II. claims 1-8, 12-13, 15, 21-22, drawn protein 4 –helix bundle comprising SEQ ID NO: 3 and a redox center.

Group III claims 1-5, 9-11, 12-13, 15, 21-22, drawn protein 4 –helix bundle comprising SEQ ID NO: 8 and a redox center.

Group IV claims 1-5, 12-13, 14-15, 21-22, drawn protein 4 –helix bundle comprising SEQ ID NO: 11 and a redox center.

Group V. claims 16-18, drawn to DNA encodes polypeptide of group I, vector, and transformant..and method of production of protein of group I.

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Group VI. claims 16-18, drawn to DNA encodes polypeptide of group I, vector, and transformant..and method of production of protein of group II.

Group VII. claims 16-18, drawn to DNA encodes polypeptide of group I, vector, and transformant..and method of production of protein of group III.

Group VIII. claims 16-18, drawn to DNA encodes polypeptide of group I, vector, and transformant..and method of production of protein of group IV.

Group IX. Claims 19-20, drawn to method of use of protein of group I in electron passinig.

Group X. claims 19-20, drawn to method of use of protein of group II in electron passinig.

Group XI. Claims 19-20, drawn to method of use of protein of group III in electron passinig.

Group XII. Claims 19-20, drawn to method of use of protein of group IV in electron passinig.

The inventions listed in Groups I-XII do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The technical features of Groups I-IV and V-VIII are products. The polypeptide of groups I-IV has distinct structure, function and properties that is not shared by DNA, vectors and transformant of group V-VIII. Therefore groups I-IV and V-VIII do not share their technical features.

The technical feature of Group IX-XII is the method steps using particular reagents, in this case proteins of group I-IV, a feature which is not shared with group V-VIII DNAs. Thus, the technical feature of Groups IX-XII is not shared with group V-VIII.

Furthermore group I-IV and groups IX-XII share a protein ( 4-alpha helix bundle motif ROP protein), this protein do not constitute a "special technical feature" as defined by PCT Rule 13.2, because it does not claim a feature which defines a contribution over the prior art as it is taught by Predki et al. ( Biochem., 1995, 9834-9839).

4. In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.
5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement is traversed (37 CFR 1.143).  
  
Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b)

if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad Meah whose telephone number is 571-272-1261. The examiner can normally be reached on 8:30-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapu Achutamurthy can be reached on 571-272-0928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mohammad Younus Meah, PhD

Examiner, Art Unit 1652

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**TEKCHAND SAIDHA**  
**PRIMARY EXAMINER**

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